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ABSTRACT

The problem of unauthorized computer software duplication impedes the production of upgraded products by software developers, who find thousands of illegal computer program copies have been made by customers who either innocently believe they are doing nothing wrong, or simply choose to ignore the law. Unauthorized duplication and use of software violates the United States Copyright Law, and unfairly deprives software developers of revenue they are entitled to receive for their work. Two kinds of violations are prevalent: softlifting and piracy. Softlifting is performed by individuals illegally making copies for their own use or use by a friend. Software piracy occurs when organizations choose consciously to encourage, or unconsciously to allow, employees to make and use illegal software copies. Reproducing computer software without authorization is a federal offense; the money paid for a software product represents a license fee for the use of one copy. Civil damages and criminal penalties can result from the abuse of this law. A more immediate repercussion of unauthorized software copying is the increase of program costs to legitimate customers, forcing them to pay for theft along with the software developers. Companies are asked to adopt software duplication guidelines and a sample policy statement on software use is provided. (JB)

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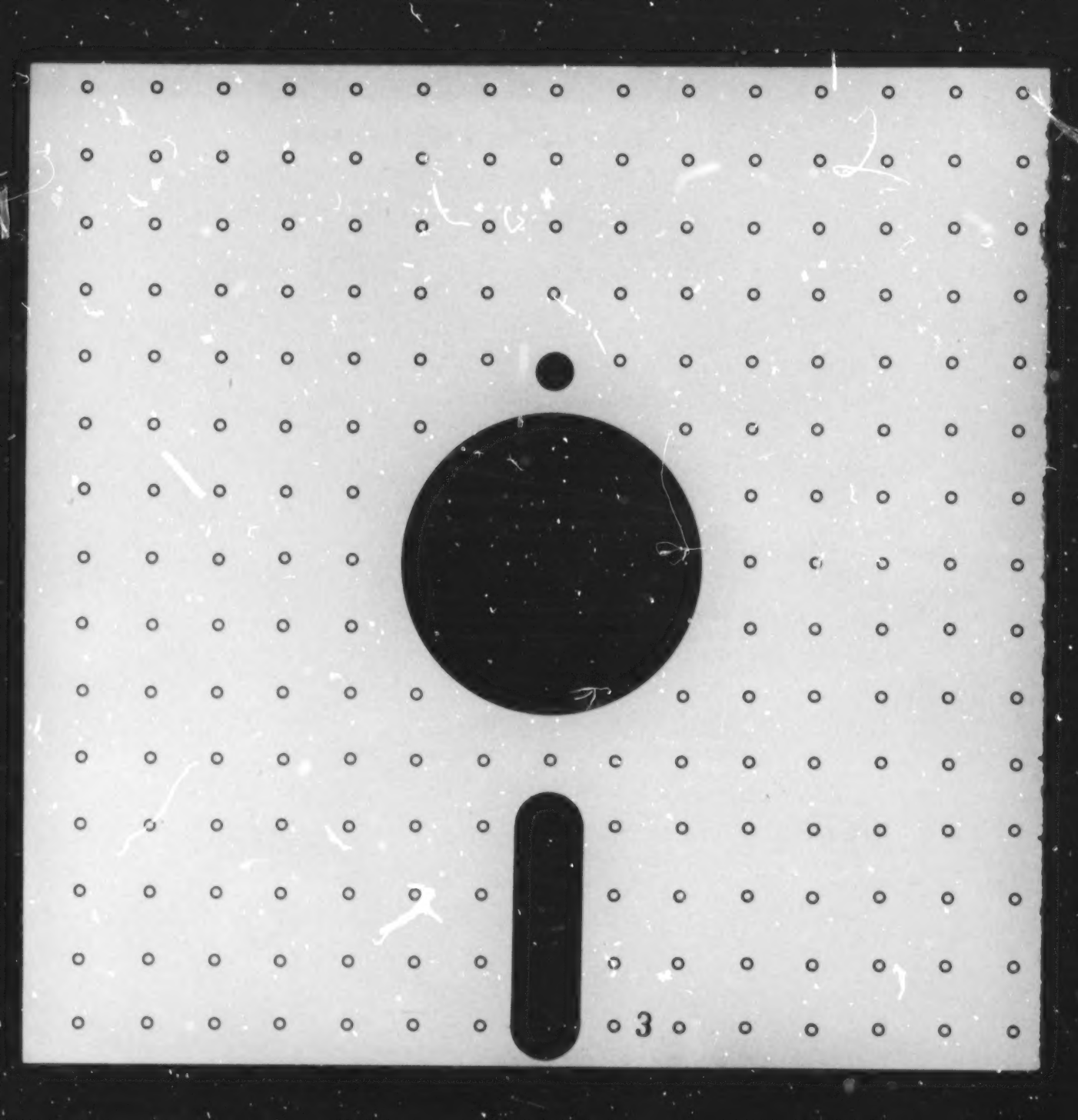
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Either Way It's Wrong

People who would never walk into a store and shoplift a software product think nothing of making several copies of the same software. The results are the same. The act is just as wrong.

When it comes to unauthorized duplication of software, many people do not realize the costly impact on the software developer and the customer community. The relationship between customer and developer in a software transaction is one of mutual trust. The customer trusts that the developer has produced a product that will deliver the desired result, performs according to specifications, and is properly documented and supported. The developer trusts that the customer will make use of only those copies for which he has purchased a license, even though making additional, unauthorized copies is relatively easy. Unauthorized duplication and use of software violates the U.S. Copyright Law, and unfairly deprives software developers of revenue they are entitled to receive for their work.

Software developers find that thousands of illegal copies have been made by customers who either innocently believe they are doing nothing wrong, or simply choose to ignore the law. This cannot continue if the customer is to expect better documentation, customer support, upgraded software and new products.

The Problem is Growing

America is increasingly dependent on software. Major organizations are discovering that the right software can mean increased productivity and higher profits. Many dollars are invested annually in software produced by independent companies, and these software developers, in turn, re-invest in new product development and user support. Unauthorized users place a substantial burden on the customer support system to the detriment of legitimate users.

As more software is reproduced unlawfully, software developers are compelled to sue to protect their rights. Most of those who have been caught have settled out of court to avoid embarrassment and unfavorable publicity.

Unfortunately, the developer cannot hope to recapture lost revenues.

A Forgiveable or Justifiable Crime? Ask Yourself.

In a sense, there are two types of crimes involved.

Softlifting is performed by individuals illegally making copies for their own use, or use by a friend. Most *softlifters* see themselves helping a friend, and don't realize a crime is being committed that hurts not only the software developer, but the customer community as well.

Software Piracy occurs when organizations choose consciously to encourage, or unconsciously to allow employees to make and use illegal software copies. Both practices violate the U.S. Copyright Law and expose the individuals and companies involved to significant fines, and even jail terms.

No one wants to sue a customer. It would be far better for all if the need for legal action could be eliminated entirely.

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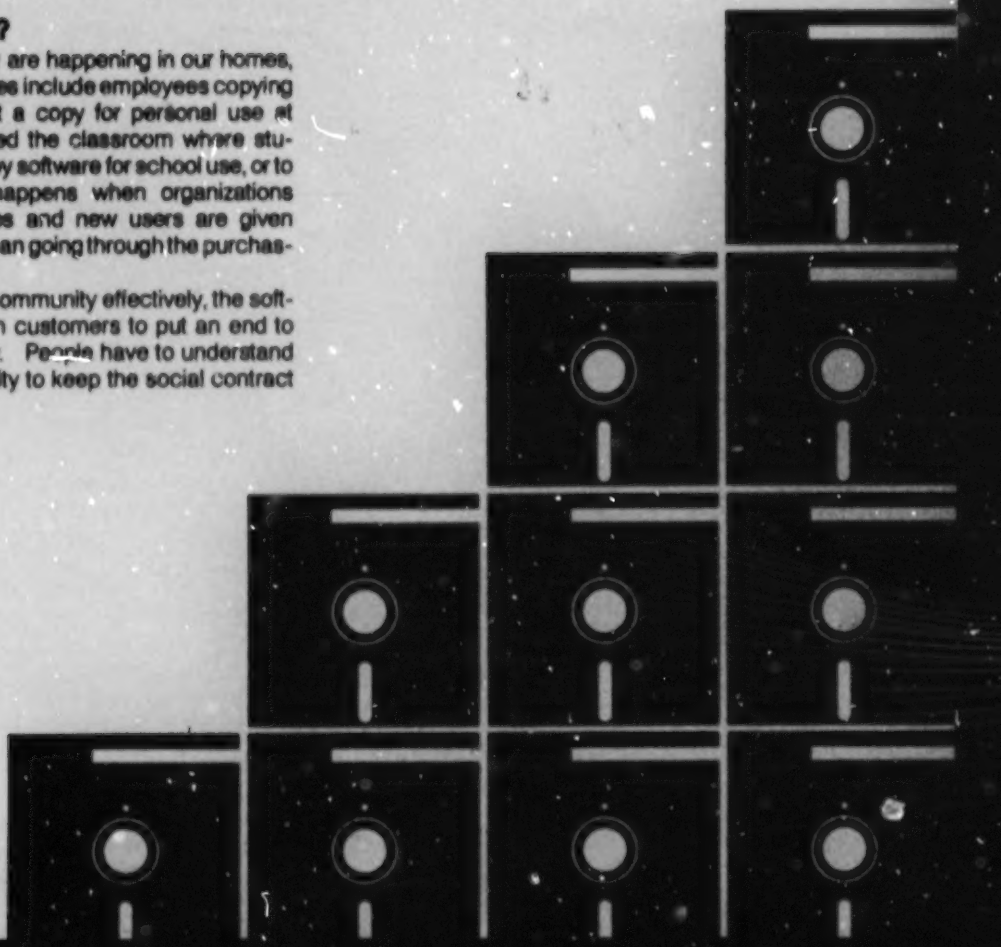
Where Is It Happening?

Software piracy and *softlifting* are happening in our homes, schools and offices. Examples include employees copying software because they want a copy for personal use at home. *Softlifting* has invaded the classroom where students, and even teachers, copy software for school use, or to give to friends. Often it happens when organizations expand computer capabilities and new users are given unauthorized copies, rather than going through the purchasing procedure.

In order to serve the user community effectively, the software industry is working with customers to put an end to *softlifting* and *software piracy*. People have to understand the law, and their responsibility to keep the social contract with software producers.



The Law is Clear

Reproducing computer software without authorization violates the U.S Copyright Law. It is a Federal offense. The money paid for a software product represents a license fee for the use of one copy. It does not represent an authorization to copy. Civil damages for unauthorized software copying can be as much as $50,000 or more, and criminal penalties include fines and imprisonment. Bills have been introduced in Congress to strengthen the law and increase penalties.

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Myths and Facts of Software

Let's start by dispelling some myths with a few facts.

First, software developers *do not* condone unauthorized copying in order to gain market penetration.

Second, the price of software *does not* make unauthorized copying justifiable. The cost of a software product to a consumer represents only a small fraction of the publisher's development and marketing costs.

Third, although the cost of *softlifting* is borne initially by the software developer, it is paid for ultimately by legitimate users.

Fourth, rationalization for *software piracy* does not make it right or legal. Some people say, "the product is too expensive." The price set by the developer and retailer does not give someone a license for theft. Also, software pricing is value based. Most software customers find that they pay only pennies per hour for the use of a valuable information processing tool.

A final myth is that the developer expects people to copy it. If you believe this, call and ask the publisher.

Research and development for a single software product costs thousands of man-hours and millions of dollars. The price you pay for software includes only a fraction of the development, marketing and support costs, plus a reasonable return on the investment.

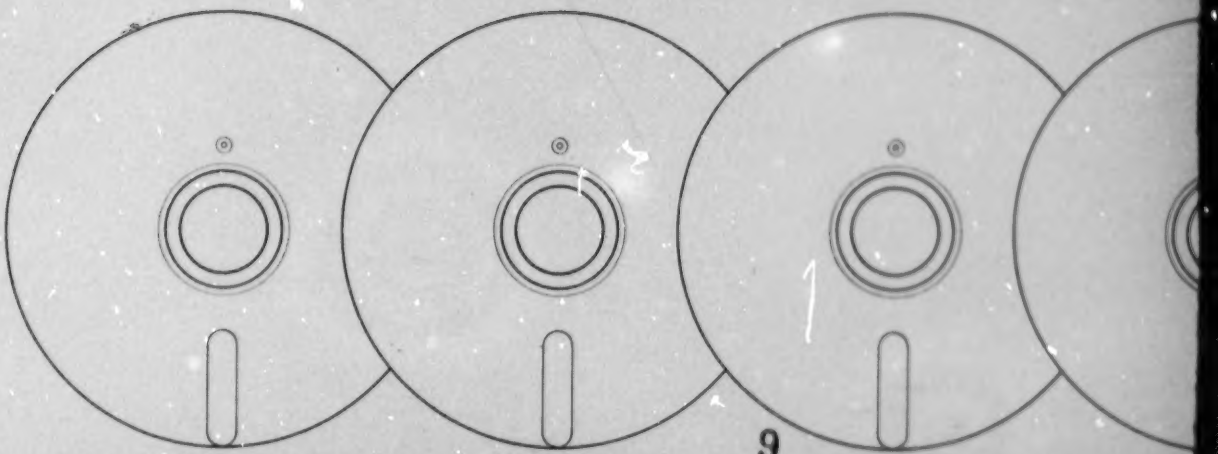
When illegal copies are produced, cheating the developer of revenues, the software company is faced with having to charge legitimate users higher prices. This is simply not acceptable — to honest customers or the industry.

What It Means to You

It's obvious that legitimate software users are paying for theft along with software developers.

It's obvious, too, that no one is going to put up with it for long.

New and better software is important to the growth, productivity and profitability of your organization. The wide variety of software applications available allows you to explore more options, have more complete and timely information for decision-making, and help to ensure an improvement in the quality of the industry's products and services. New software won't be financed unless its investors feel secure in receiving a reasonable return on investment. As a software user, you have the responsibility to live up to your agreement with the developer.



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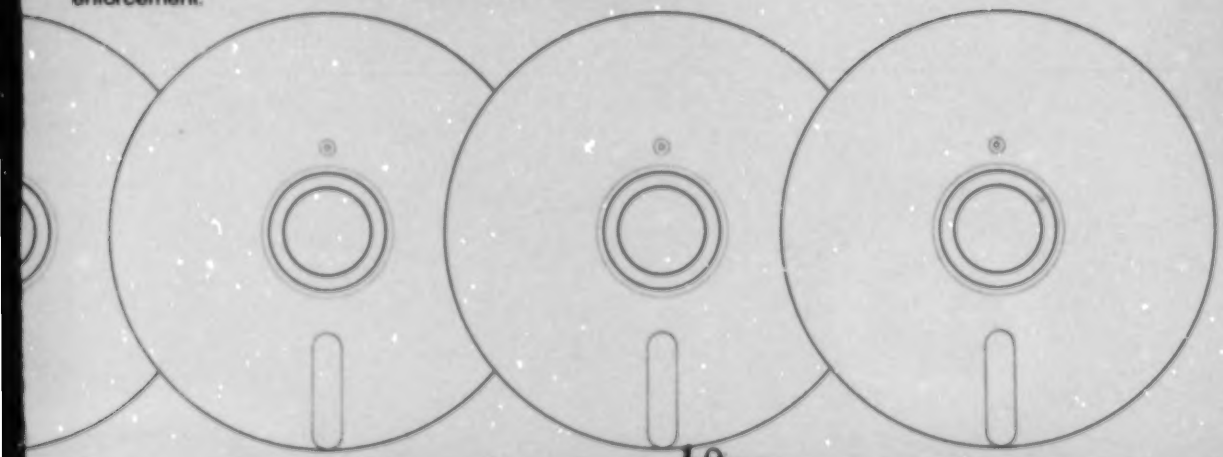
What We're Doing About It

Coordinated by the Software Protection Fund, a committee of the Association of Data Processing Service Organizations (ADAPSO), the industry has established a public information program on the issue of *software piracy* and *softlifting*.

The industry simply cannot allow anyone to take its assets with impunity. The software industry believes that most software users will recognize the problem when faced with the facts, and act responsibly and ethically. Those individuals and organizations that choose to ignore the law, and their obligations, by reproducing and using unauthorized software copies will be prosecuted.

This brochure is part of an extensive awareness campaign designed to bring the issue to the public's attention.

ADAPSO is working with Congress to strengthen copyright protection of software, and is encouraging serious law enforcement.



Is Someone Exposing Your Organization?

We are aware that most people do not encourage *software piracy* or *softlifting*. We also believe that most people confronted with the consequences of this crime would stop. ADAPSO is encouraging all organizations that have an investment in software to conduct an internal organization audit to ensure that *softlifting* and *piracy* are not occurring. No one wants costly or embarrassing legal action.

We recommend and ask for your support in informing people in your organization that receiving or being a party in duping or copying software, in violation of the license agreement, is a crime.

In addition, we are asking organizations to establish a written policy statement on software use, and provide it to all employees with access to computer software. Each employee should be asked to sign the policy statement to indicate he or she is aware of the policy.

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Policy Statement

The following statement will serve as a guide.

I recognize that:

1. (Company, Organization) licenses the use of its computer software from a variety of outside companies. (Company, Organization) does not own this software or its related documentation and, unless authorized by the software developer, does not have the right to reproduce it.
2. With regard to use on local area networks or on multiple machines, (Company, Organization) employees shall use the software only in accordance with the license agreement.
3. (Company, Organization) employees learning of any misuse of software or related documentation within the company shall notify their department manager or (Company's, Organization's) legal counsel.
4. (Company, Organization) employees caught making, acquiring or using unauthorized copies of computer software will be disciplined as appropriate under the circumstances.
5. According to the U.S. Copyright Law, illegal reproduction of software can be subject to civil damages of $50,000 or more, and criminal penalties including fines and imprisonment.

I am aware of the software protection policies of (Company, Organization).

_____

Employee Signature

_____

Date

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ADAPSO represents more than 750 corporate members that provide a wide spectrum of computer services and software including: micro, mini and mainframe software products; professional software services; batch and remote processing services; integrated hardware/software systems; education and training; and consulting.

For further information or questions on software protection, contact *ADAPSO, Suite 300, 1300 North 17th Street, Arlington, VA 22209;* or phone *(703) 522-5055.*

Where to Get More Information